

TESTIMONY TO THE JUDICIARY COMMITTEE

January 24, 2011

I am Dr. Chris Hahn of Bozeman. My professional focus is on the improvement of the lives of children of divorce and separation. I conduct parenting evaluations, work as a parenting plan coordinator, and as a mediator. I currently have cases in the 5th, 6th, and 18th Judicial Districts.

As a parenting evaluator I work under the Guardian ad litem statute MCA 40-4-205. As a parenting plan coordinator I work primarily under the Guardian ad litem statute MCA 41-3-112 that has a different focus and is often associated with CASA. Today, we are focusing only on changes to the parenting investigation statute MCA 40-4-205, Guardians for custody cases. I feel it is crucial to make this distinction because there seems to be some confusion about this. We are not talking about CASA-like volunteer activities; rather, we are talking about parenting investigations. There are no volunteer Guardians in my area who do parenting investigations. CASA refuses these cases.

I believe that strategic changes to MCA 40-4-205 will help provide better outcomes for children because judges will have more qualified Guardians to provide them insight and information on which to base their decisions. In most of the state parenting evaluations are private pay. Our District Courts will benefit from more Guardians, especially in light of the many pro se dissolution cases that now face the court, but I don't expect the state to pay for these Guardians. There is a better way.

The majority of the cases that I handle as an evaluator end in out-of-court settlements rather than decisions by Judges. This radically reduces the time the Courts must spend on dissolution cases. Combine out of court settlements with the more insightful handling of cases by the Courts if they have evaluation reports, and you can see that a more robust Guardian ad litem system in Montana could lead to significant savings by the judiciary. But how do we qualify these Guardians?

I believe that the application of national standards of practice for custody evaluators should be considered in the selection process of parenting-investigator-Guardians unless training guidelines are established by amendment of MCA 40-4-205. National standards generally specify such a high level of education and training that makes it easy to see why there is a shortage of qualified Guardians in many jurisdictions. Explicit training guidelines, such as those outlined in AB 281, would allow us to train and deploy competent Montana-grown Guardians.

If we have more trained and qualified Guardians in Montana, supply and demand will increase the availability of effective Guardians, especially in the more rural counties. Increased supply will help reduce the price making guardian services available to many more people. It is free enterprise, not government money, which can reduce the load on the Courts and provide better outcomes for children.

For a system of parenting investigation Guardians to work, I believe that, in addition to training requirements, there must be a certification process and a statewide grievance procedure. HB 281, unfortunately, does not include the development of a statewide roster of parenting investigator Guardians, nor does it include a statewide grievance board. These are elements of the bill that may be improved upon in committee sessions or through future amendment.

In summary, I believe that amendments to MCA 40-4-205 that include training requirements for parenting investigation Guardians, continuing education requirements, a state roster of Guardians, and a statewide grievance board can utilize the free enterprise system to reduce the load on the District Courts, reduce overall costs to the state, increase the quality of guardian services, and of paramount importance, improve the lives of our children who are trapped in difficult post-divorce and separation situations.

(I won't be able to stay until the end of all of the testimony. Should anyone on the committee want to contact me later my office number is 522-4143, my website is constructiveagreement.com.)

Footnote: I follow the Standards of the Association of Family and Conciliation Courts (these standards are available at afccnet.org). These standards specify that custody evaluators have a Masters or Doctoral Degree in a mental health field, have received specialty training in custody evaluations, and be licensed as mental health professionals, or qualified as mediators according to state standards. Using these criteria, it is easy to see why there is a shortage of qualified guardians in many jurisdictions.

Footnote 2: North Dakota has a statewide roster and grievance procedure for their Guardians. North Dakota attorneys and judges report satisfaction with their system. I am happy to provide North Dakota contacts on request.